

Amend **HB 2840** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Title 2, Business & Commerce Code, is amended by adding Chapter 21 to read as follows:

CHAPTER 21. REQUIRED NOTICE BY CERTAIN RESIDENTIAL FORECLOSURE

CONSULTANTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 21.001. DEFINITIONS. In this chapter:

(1) "Foreclosure consultant" means a person who performs, or represents that the person can or will perform, for compensation services in connection with the prevention or postponement of foreclosure proceedings against a homeowner's residential property or other services related to the foreclosure of the property.

(2) "Residence in foreclosure" means residential real property consisting of not more than four single-family dwelling units, at least one of which is occupied as the homeowner's principal place of residence, and against which a foreclosure action has been commenced.

Sec. 21.002. EXCEPTION FROM APPLICABILITY OF CHAPTER. (a) Except as provided by Subsection (b), this chapter does not apply to the following persons who perform foreclosure consulting services:

(1) an attorney admitted to practice in this state who performs those services in relation to the attorney's attorney-client relationship with a homeowner or the beneficiary of the lien being foreclosed;

(2) a person who holds or is owed an obligation secured by a lien on a residence in foreclosure if the person performs those services in connection with the obligation or lien;

(3) a person who regulates banks, trust companies, savings and loan associations, credit unions, or insurance companies under the laws of this state or the United States if the person performs those services as part of the person's normal business activities;

(4) an affiliate of a person described by Subdivision (3) if the affiliate performs those services as part of the

affiliate's normal business activities;

(5) a judgment creditor of the homeowner of the residence in foreclosure, if:

(A) the legal action giving rise to the judgment was commenced before the notice of default required under Section 5.064 or 51.002(d), Property Code; and

(B) the judgment is recorded in the real property records of the clerk of the county where the residence in foreclosure is located;

(6) a licensed title insurer, title insurance agent, or escrow officer authorized to transact business in this state if the person is performing those services in conjunction with title insurance or settlement services;

(7) a licensed real estate broker or real estate salesperson if the person is engaging in an activity for which the person is licensed;

(8) a mortgage broker or loan officer licensed under Chapter 156, Finance Code, if the person is engaging in an activity for which the person is licensed; or

(9) a nonprofit organization that provides solely counseling or advice to homeowners who have a residence in foreclosure or have defaulted on their home loans, unless the organization is an associate of the foreclosure consultant.

(b) This chapter applies to a person described by Subsection (a) if the person is providing foreclosure consulting services designed or intended to transfer title, directly or indirectly, to a residence in foreclosure to that person or the person's associate.

[Sections 21.003-21.050 reserved for expansion]

#### SUBCHAPTER B. NOTICE

Sec. 21.051. REQUIRED DISCLOSURE. Before entering into a contract with a homeowner of a residence in foreclosure for the purchase of the services of a foreclosure consultant, the foreclosure consultant shall provide the homeowner written notice stating the following, in at least 14-point boldfaced type:

#### NOTICE REQUIRED BY TEXAS LAW

\_\_\_\_\_ (Name) or an associate of \_\_\_\_\_ (Name) cannot ask you to

sign or have you sign any document that transfers any interest in your home or property to \_\_\_\_\_ (Name) or \_\_\_\_\_ (Name's) associate.

\_\_\_\_\_ (Name) or \_\_\_\_\_ (Name's) associate cannot guarantee you that they will be able to refinance your home or arrange for you to keep your home.

You may, at any time, cancel or rescind this contract, without penalty of any kind.

If you want to cancel this contract, mail or deliver a signed and dated copy of this notice of cancellation or rescission, or any other written notice, indicating your intent to cancel or rescind to \_\_\_\_\_ (Name and address of foreclosure consultant) at \_\_\_\_\_ (Address of foreclosure consultant, including facsimile and electronic mail address).

As part of any cancellation or rescission, you (the homeowner) must repay any money spent on your behalf by \_\_\_\_\_ (Name of foreclosure consultant) prior to receipt of this notice and as a result of this agreement, within 60 days, along with interest calculated at the rate of eight percent per year.

(b) Chapter 21, Business & Commerce Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.